

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.11.2007

CORAM:

THE HONOURABLE MR.JUSTICE K. MOHAN RAM

Criminal Original Petition No.29087 of 2007

Tmt. J.Jayashree

.. Petitioner

-Vs.-

1. State of Tamil Nadu,
Rep. by the Commissioner of Police,
Greater Chennai, Egmore, Chennai - 8.
2. The Deputy Commissioner of Police
(Law & Order)
T.Nagar Police District, T.Nagar, Chennai - 17
3. The Sub-Inspector of Police
(Law & Order)
R-7 K.K.Nagar, Police Station,
K.K.Nagar, Chennai - 78
4. The Station House Officer,
Tada Police Station,
Nellore District, Andhra Pradesh
5. The Central Bureau of Investigation,
Rep. by Superintendent of Police,
Special Crime Branch, Rajaji Bhavan, Besant Nagar,
Chennai - 90

.. Respondents

Prayer: Petition filed under Section 482 of the Code of Criminal Procedure to transfer the investigation in Crime No.1888 of 2007 pending on the file of the third respondent and Crime No.100 of 2007 pending on the file of the fourth respondent to the fifth respondent / CBI and direct the fifth respondent to investigate this case and file a final report in accordance with law.

For Petitioner :Mr. M.Satyanarayan, for, M/s. N.S.Sivakumar
For Respondents : Mr. Hasan Mohamed Jinnah,
Government Advocate (Crl. Side),
for R-1 to R-3.
Mr. P.Madha Rao, Sub-Inspector, for R-4.
Mr. N.Chandrasekaran, for R-5.

- - -
O R D E R

The petitioner lodged a complaint on 29.07.2007 with the third respondent stating that her husband was missing from 27.07.2007 and sought for appropriate action to trace her husband-Mr.R.Narayanan. The third respondent registered a case in Crime No.1888 of 2007 for 'man missing'. On 02.08.2007 the petitioner being informed by the Sub-Inspector of Police attached to the fourth respondent Police Station that they have found a body below a culvert of Mambattu Road on 28.07.2007 and after seeing the photograph of the body the petitioner identified the photograph as that of her husband. The petitioner came to know that the fourth respondent after holding inquest and post-mortem had buried the body of her husband on 30.07.2007 itself. After due permission the body was exhumed and last rites were performed at Sulurpet. The fourth respondent-Police has also registered a case in Crime No.100 of 2007 on 28.07.2007 for the offence under Sections 302 and 201 Indian Penal Code. As per the inquest report prepared by the fourth respondent, 12 injuries were found on the head, face and other parts of the body of the petitioner's husband which indicate that the death was due to homicidal violence.

2. It is the case of the petitioner that there is no mutual co-operation between the third and fourth respondents with regard to the above said two cases. The petitioner has stated in the petition that both the third and fourth respondents are not evincing any interest in investigating into the matter stating that the offence had not taken place in their jurisdiction; so far the mobile phone and car of the petitioner's husband have not been traced; no steps have been taken to collect the records pertaining to the calls made and received through the mobile phone of her husband; in view of the lapses on the part of the third and fourth respondents there is no progress at all in the investigation of the cases. On the above said grounds, the petitioner has come before this Court seeking transfer of the investigation in Crime No.1888 of 2007 pending on the file of the third respondent and in Crime No.100 of 2007 pending on the file of the fourth respondent to the Central Bureau of Investigation.

3. The third respondent has filed a counter affidavit. In the counter affidavit various steps taken by the third respondent after registering the case in crime No.1888 of 2007 have been set-out in detail. The third respondent has also referred to the registration of the case in Crime No.100 of 2007 by the fourth respondent and regarding the steps taken by the fourth respondent in the course of investigation. It is further stated in the counter affidavit that the cause of action being within the jurisdiction of Tada Police Station, no parallel investigation can be conducted and the investigation has

to be pursued by the fourth respondent only. It is further stated that the records and statements pertaining to Crime No.1888 of 2007 are being forwarded to the fourth respondent and it is also stated that in the said circumstances investigation by any specialised agency may not advance the case any further.

4. At the time of hearing of the above petition, Mr. P.Madha Rao, Sub-Inspector of Police attached to the fourth respondent-Police Station was present in the Court with the C.D. File. The fifth respondent was represented by Mr. N.Chandrasekaran, learned counsel for CBI cases. The fourth respondent has produced a copy of the communication in R.C.No.4812/compliance/2/2007, dated 22.10.2007 sent by the Director General of Police, Andhra Pradesh, Hyderabad to the Director General of Police, Tamil Nadu. A perusal of the said communication shows that the Director General of Police, Andhra Pradesh, Hyderabad has informed the Director General of Police, Tamil Nadu that the case in Crime No.100 of 2007 on the file of the fourth respondent is being transferred for further investigation to the third respondent-Police and a request has been made to direct the concerned to take necessary action in the matter as the subject matter pertains to Crime No.1888 of 2007 on the file of the third respondent and the entire C.D. file pertaining to Crime No.100 of 2007 has also been enclosed.

5. Heard Mr. M.Satyanarayanan learned counsel for the petitioner, Mr. Hasan Mohamed Jinnah, learned Government Advocate (Crl. Side) for Respondents 1 to 3, Mr.P.Madharao, Sub-Inspector, for the fourth respondent and Mr. N.Chandrasekaran learned counsel for the CBI Cases for the fifth respondent.

6. Learned counsel for the petitioner submitted that though the petitioner's husband was missing from 27.07.2007 and the complaint was lodged on 29.07.2007 no effective steps have been taken by the third respondent and though the fourth respondent has registered a case in Crime No.100 of 2007 so far no effective steps have been taken to trace the missing car and no details have been collected in respect of the calls made and received through the mobile phone of the petitioner's husband; while the third respondent has taken a stand that since the body has been found within the limits of Tada Police Station, the fourth respondent herein, the investigation has to be done by the fourth respondent, the fourth respondent has already taken a stand that since the offence pertains to Crime No.1888 of 2007 the further investigation should be only conducted by the third respondent and the entire C.D. File has already been forwarded to the Director General of Police, Tamil Nadu. According to the learned counsel, in such circumstances, unless the investigation is entrusted to the Central Bureau of Investigation, there is absolutely no possibility for carrying out any meaningful investigation in the case and the real culprits will not be brought to book and the petitioner will not get

any justice.

7. Learned Government Advocate (Criminal Side) for respondents 1 to 3 submitted that since the body has been found within the limits of the fourth respondent the investigation should be conducted only by the fourth respondent in Crime No.100 of 2007.

8. Learned counsel for Central Bureau of Investigation for the fifth respondent submitted if a direction is issued by this Court directing the Central Bureau of Investigation to take over the investigation the same will be complied with.

9. I have carefully considered the submissions made by the learned counsel on either side and perused the materials on record.

10. As is seen from the materials available on record and from the submissions made by the learned counsel for the petitioner though the petitioner had lodged a complaint as early as on 27.07.2007 before the third respondent and subsequently the fourth respondent has also registered a case in Crime No.100 of 2007 and had carried out the investigation to some extent no effective steps seem to have been taken so far to trace the car belonging to the petitioner's husband and to collect the details pertaining to the calls made and received through mobile No.98407 16531 belonging to the petitioner's husband and the third respondent has taken a stand that the case should be investigated by the fourth respondent and the fourth respondent has taken a stand that the case should be investigated by the third respondent and in fact the Director General of Police, Andhra Pradesh, Hyderabad, has forwarded the entire case file and the C.D. file relating to Crime No.100 of 2007 to the Director General of Police, Tamil Nadu. In such circumstances, the petitioner is caught up in the procedural angle between the third and fourth respondents. As rightly contended by the learned counsel for the petitioner, in such circumstances, the petitioner may not get real justice and no meaningful investigation can be expected either from the third respondent or from the fourth respondent. Further, since the case is inter-state crime it may not be feasible for either the third respondent or the fourth respondent to effectively investigate the case and since the investigation has to be carried out both in Tamil Nadu and Andhra Pradesh, if the investigation is entrusted to the Central Bureau of Investigation, it will be easier for that Agency to investigate the matter effectively. Therefore in the considered view of this Court in the interest of justice it will be just and proper to entrust the investigation in this matter to the Central Bureau of Investigation.

11. Accordingly, the above criminal original petition is allowed and the investigation in Crime No.1888 of 2007 pending on the file of the third respondent and Crime No.100 of 2007 pending on the file of

the fourth respondent are transferred to the file of the Central Bureau of Investigation (CBI), New Delhi - 1, for further investigation and filing of final report. Respondents 3 and 4 are hereby directed to send the entire case records relating to Crime No.1888 of 2007 and Crime No.100 of 2007, respectively, to the Director of Central Bureau of Investigation, New Delhi - 1, within a week from the date of receipt of a copy of this order to enable the Director, Central Bureau of Investigation, to nominate a competent officer to investigate into the said cases.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

srk

To

1. The Commissioner of Police
Greater Chennai,
Egmore, Chennai - 8.
2. The Deputy Commissioner of Police
(Law & Order)
T.Nagar Police Station,
T.Nagar, Chennai - 17
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4. The Station House Officer,
Tada Police Station,
Nellore District, Andhra Pradesh
5. The Central Bureau of Investigation (CBI),
New Delhi - 1.
- 6.The Superintendent of Police,
Special Crime Branch-CBI
Rajaji Bhavan, Besant Nagar, Chennai-90.

+1cc to Mr.N.S.Sivakumar, Advocate Sr 67306

KS (CO)
km/22.11.

Cr1.O.P.No.29087 of 2007